

## Message Text

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SUBJECT: COURT DECISION ON ITALIAN TELEVISION

REF: ROME FM-31, JUNE 21, 1974

SUMMARY: A RECENT ITALIAN CONSTITUTIONAL COURT DECISION MAY SUBSTANTIALLY WEAKEN RAI'S MONOPOLY CONTROL OVER ITALIAN TELEVISION. THE RULING--WHICH PRIMARILY AFFECTS CABLE TV AND FOREIGN BROADCASTS INTO ITALY--ALLOWS FOR REGIONAL CABLE TV FOR THE FIRST TIME, AND THIS MAY EVENTUALLY WEAKEN THE LONG-STANDING RADIO-TV SUPREMACY OF THE CHRISTIAN DEMOCRATIC PARTY. END SUMMARY

A RECENT DECISION OF THE ITALIAN CONSTITUTIONAL COURT HAS SET LIMITS TO THE NATIONAL TELEVISION MONOPOLY PRESENTLY ENJOYED BY THE QUASI-STATE CORPORATION RAI. THE COURT RULED THAT RAI'S MONOPOLY IS CONSISTENT WITH CONSTITUTIONAL PROVISIONS GUARANTEEING FREE ENTERPRISE AND FREEDOM OF COMMUNICATIONS ONLY INsofar AS IT:

- 1) GUARANTEES FREEDOM OF EXPRESSION THROUGH TELEVISION TO ALL SOCIO-POLITICAL FORCES; AND 2) PROVIDES FAIR AND UNBIASED COMMENTS ON POLITICAL EVENTS.

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THE COURT DECIDED THAT IF RAI DID NOT CONTINUE TO SATISFY THESE TWO CONDITIONS THE COURT MIGHT EVENTUALLY SUBSTANTIATE A CLAIM TO BROADLY LIBERALIZE TELEVISION PROGRAMMING. FOR THE TIME BEING, HOWEVER, THE COURT SUSTAINED RAI'S POSITION ON PRAGMATIC GROUNDS. IT ARGUED THAT TO PERMIT PRIVATE OWNERSHIP OF TELEVISION STATIONS WOULD ALLOW PRIVATE GROUPS TO MANIPULATE PUBLIC OPINION IN WAYS DETRIMENTAL TO THE NATIONAL INTEREST.

AMONG THE SPECIFIC POINTS MADE BY THE COURT WERE THE FOLLOWING: 1) RAI MUST LIMIT ITS ADVERTISING TO AVOID HARM TO THE PRINTED MEDIA, WHICH DEPEND TO A LARGE DEGREE ON ADVERTISING. 2) RAI'S TELEVISION MONOPOLY APPLIES ONLY TO NATIONWIDE CABLE TRANSMISSIONS. THE EFFECT OF THE DECISION IS TO ALLOW CABLE TV STATIONS TO BE ESTABLISHED BY PRIVATE FIRMS AND/OR LOCAL GOVERNMENTS, ON A REGIONAL BASIS. 3) TRANSMITTERS BUILT BY PRIVATE COMPANIES TO RELAY FOREIGN TV PROGRAMS INTO ITALY ARE LEGAL, ON THE THEORY (PERHAPS INFLUENCED BY CURRENT CSCE DISCUSSIONS) THAT IDEAS AND OPINIONS FROM ABROAD SHOULD BE ALLOWED TO CIRCULATE FREELY. THIS RULING, IN EFFECT, REPEALS AN EARLIER DECREE BY MINISTER OF POST AND TELECOMMUNICATIONS TOGNI (SEE REF FM), WHO HAD ORDERED ALL SUCH TRANSMITTERS TO SHUT DOWN.

AS A RESULT OF THE COURT'S DECISION, PROGRAMS OF THE ITALIAN SERVICE OF SWISS TELEVISION (SSR), SLOVENIAN TELEVISION (BROADCAST FROM CAPODISTRIA, YUGOSLAVIA) AND EVENTUALLY BY THE FRENCH STATION NOW NEARING COMPLETION AT MONTECARLO MAY BE RECEIVED THROUGHOUT ITALY. RECEPTION OF THESE STATIONS IS ALREADY POSSIBLE IN MOST OF NORTHERN ITALY, AND IT WILL NOT BE LONG BEFORE BROADCASTS REACH ROME AND THE MEZZOGIORNO AS WELL, AS THE RUSH BEGINS TO INSTALL RELAY TOWERS IN THE SOUTH.

MOST LOCAL POLITICAL FORCES (THE LIBERAL PARTY EXCEPTED) DISLIKE THE RULING OF FOREIGN BROADCASTS, BUT ARE NOT SERIOUSLY CONCERNED ABOUT IT. THEY NOTE THAT WATCHING FOREIGN TV WILL STILL BE PROHIBITIVELY EXPENSIVE FOR MOST. SMALL COLOR TELEVISION RECEIVERS ARE PRICED LIMITED OFFICIAL USE

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AT ABOUT \$800 IN ROME TODAY, AND THE COST OF ADAPTING AN ITALIAN TV RECEIVER TO PICK UP BROADCASTS IN BLACK AND WHITE FROM THE SWISS PAL SYSTEM IS ROUGHLY \$100. THE FEELING IS THAT THESE ARE LUXURIES ONLY FOR THE RICH WILL INDULGE IN.

THE PARTIES ARE MUCH MORE INTERESTED, HOWEVER, IN THE IMPLICATIONS OF THE DECISION ON CABLE TV, ACCORDING

TO INDICATORS IN THE PARTY PRESS.

THE COMMUNISTS FAVOR THE DECENTRALIZATION OF CABLE TRANSMISSIONS, WITH STATIONS OPERATED BY THE VARIOUS REGIONAL GOVERNMENTS. THE SOCIALIST PARTY LEANS TOWARD A SIMILAR ARRANGEMENT, FEELING THAT IT OFFERS AN OPPORTUNITY TO CONTROL TV INFORMATION IN THE REGIONS WITH LEFTIST MAJORITIES. THE RATIONALE BEING PUT FORWARD IN FAVOR OF REGIONAL GOVERNMENT CONTROL IS THAT IT WOULD PREVENT CONTROL FROM FALLING INTO THE HANDS OF BIG PRIVATE CONCERNS, SEEN BY THE LEFTISTS AS "REACTIONARY FORCES."

THE CHRISTIAN DEMOCRATS, WHO FOR YEARS HAVE EXERCISED CONTROL OVER RAI, WOULD LIKE TO SEE RAI GAIN FULL CONTROL OVER ALL CABLE TRANSMISSIONS. THAT IS TO SAY, THE PARTY WOULD LIKE THE COURT TO REVERSE ITS DECISION ON CABLE TV. IT ARGUES THAT THE LONG-DISCUSSED REFORM OF RAI, WHEN IT IS ENACTED, WOULD INSURE THE FUNCTIONAL DECENTRALIZATION OF PROGRAM PRODUCTION, THEREBY ACCOMPLISHING THE ENDS THE COURT SOUGHT THROUGH ITS RULING. LIKE THE COMMUNISTS AND THE SOCIALISTS, THE CHRISTIAN DEMOCRATS MAINTAIN THAT ONLY THE STATE CAN GUARANTEE FREEDOM OF INFORMATION. THE DIFFERENCE IS THAT THE LEFTISTS GROUPS THINK GOVERNMENT CONTROL SHOULD BE EXERCISED ON THE REGIONAL LEVEL, WHILE THE CHRISTIAN DEMOCRATS OPT FOR NATIONAL CONTROL WIELDED THROUGH RAI.

THE REPUBLICANS AND SOCIAL DEMOCRATS--WHO PARTICIPATE IN THE CURRENT RULING COALITION ALONG WITH THE SOCIALISTS AND CHRISTIAN DEMOCRATS--GENERALLY LINE UP WITH THE CHRISTIAN DEMOCRATS, ALTHOUGH THEY ADVOCATE A MORE OPEN TV STRUCTURE THAT WOULD ALLOW BROADCAST JOURNALISTS AND LIMITED OFFICIAL USE

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PRODUCERS WIDER MARGINS OF EXPRESSION IN THE MANNER OF THE BBC, FOR EXAMPLE. THE BUSINESS-ORIENTED LIBERAL PARTY FAVORS THE GENERAL LIBERALIZATION OF TV TRANSMISSION AND THE ACTIVE INVOLVEMENT OF PRIVATE ENTERPRISE.

ALTHOUGH THE IMPACT OF THE DECISION WILL NOT BE DEEPLY FELT FOR SOME TIME, THE IMPLICATIONS ARE GREAT. THE LONG-TIME MONOPOLY OF RAI WILL BE THREATENED, AND THIS IS REGARDED AS A HEALTHY DEVELOPMENT BY MOST REFORMERS. DECENTRALIZATION OF CONTROL OF INFORMATION WILL GIVE GREATER OPPORTUNITIES TO OPPOSITION AND SPECIAL INTEREST GROUPS, AT LEAST ON A REGIONAL BASIS. NEW BUSINESS WILL BE STIMULATED FOR SALES OF COLOR TV SETS, AND FOR PRIVATE CABLE-TV FIRMS. THERE WILL BE GREATER PRESSURE FOR RAI TO DECIDE WHICH COLOR-TV SYSTEM TO ADOPT, AND WHEN TO START TELECASTING

IN COLOR TO COMPETE WITH THE FOREIGN RELAYED PROGRAMS.

FOR USIS, THE EVENTUAL INCREASE IN THE NUMBER OF  
BROADCASTING STATIONS WILL UNDOUBTELDY PROVIDE NEW  
OPPORTUNITIES FOR PLACEMENT OF SUBSTANTIVE PROGRAMS,  
ALTHOUGH IT IS TOO EARLY TO SPECULATE BEYOND THIS. AMERSON

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